

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:12-CR-311-BO
NO. 5:15-CV-140-BO

RODNEY FRANCIS SMITH,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.


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ORDER

This cause is before the Court on petitioner's motion for leave to amend his motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. [DE 85]. Petitioner seeks to add a claim in light of the Supreme Court's decision in *Johnson v. United States*, which ruled that the residual clause of 18 U.S.C. § 924(e) was unconstitutionally vague. Petitioner argues that, following *Johnson*, his predicate conviction for carjacking no longer constitutes a crime of violence, thus his sentence under § 924(e) is unconstitutional.

For good cause shown and in the interest of justice, the Court allows petitioner to add this claim. Pursuant to 15-SO-2, the Office of the Federal Public Defender is appointed to assess the viability of petitioner's *Johnson* claim. The government is DIRECTED to file a response to petitioner's *Johnson* claim under within forty-five (45) days of this Order.

SO ORDERED this 21 day of October, 2015.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE